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Attorneys for Defendants/Cross-Complainants
NORTH BAY CONSTRUCTION, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ISCO INDUSTRIES,

Plaintiff,

v.

NORTH BAY CONSTRUCTION, INC., et
al.,

Defendants.

Case No. 4:06-CV-07082-CW

**JOINT SUPPLEMENTAL CASE
MANAGEMENT STATEMENT AND
~~PROPOSED~~ ORDER**

DATE: February 3, 2009
TIME: 2:00 p.m.
PLACE: Courtroom 2, 4th Floor
1301 Clay Street
Oakland, CA 94612

NORTH BAY CONSTRUCTION, INC. et
al,

Defendants/Cross-
Complainant,

v.

ISCO INDUSTRIES, LLC, a Kentucky
limited liability company, and ROES 1
through 50, inclusive,

Defendants.

Pursuant to Civil L. R. 16-14(d), the parties to the above-entitled actions certify that they
have met and conferred at least ten (10) days prior to the subsequent case management conference
scheduled in this case and jointly submit this Supplemental Case Management Statement and

1 Proposed Order and request the Court adopt it as a Supplemental Case Management Order in this
2 case.

3 DESCRIPTION OF SUBSEQUENT CASE DEVELOPMENTS

4 1. The following progress or changes have occurred since the last case management
5 statement filed by the parties:

6 Pursuant to Order of this Court signed January 8, 2008, the Court ordered that (1) the
7 parties are ordered to arbitrate this matter pursuant to the terms from North Bay Construction's
8 ("NBC") Purchase Order 3102, attached as Exhibit D to the Declaration of Steve Geney in
9 Support of NBC's Motion to Compel, (2) this action shall be stayed until completion of
10 arbitration proceedings, and (3) before engaging in arbitration, the parties shall first make a good-
11 faith effort to mediate the matter before a private mediator agreed upon by the parties. The
12 following discussion is not intended to be a waiver of any mediation privileges, but is intended to
13 communicate to the Court what has happened since the last case management conference:

14 Since the last case management conference, North Bay Construction, Inc. and ISCO
15 Industries, LLC have engaged in an ongoing mediation with mediator Bruce Edwards, Esq. This
16 process has involved the development by experts of a testing protocol by which to determine how
17 best to construct and repair the leachate pipeline, at issue in the case. That testing protocol is now
18 in the process of being fine-tuned by the County of Sonoma, for whom the leachate pipeline was
19 constructed. Once the testing protocol is complete, testing will occur and the parties anticipate
20 that repairs will be conducted soon thereafter. Until such repairs are conducted, however, the
21 parties do not have the information necessary to have a meaningful discussion regarding the
22 damages at issue in this case. The parties anticipate that completion of the testing protocol and
23 subsequent repairs should take three to four months and respectfully requests that the Court return
24 to this matter at that time to determine the status of the case.

25 2. The parties jointly request that the Court make the following Supplemental Case
26 Management Order:

1 The parties request the Court set this matter for a further case management conference for
2 approximately ninety (90) days from now.

3
4 Dated: January __, 2009

LEWIS BRISBOIS BISGAARD & SMITH, LLP

6 By _____
7 Jeffrey G. Bairey
8 Lorena Matei
Attorneys for Cross-Defendant
ISCO INDUSTRIES, LLC

9 Dated: January __, 2009

BELL, ROSENBERG & HUGHTS LLP

11 By _____
12 Roland Nikles
Attorneys for Plaintiff and Cross-Defendants
ISCO INDUSTRIES, LLC

13 Dated: January 27, 2009

ABBEY, WEITZENBERG, WARREN & EMERY

15 By _____
16 David W. Berry, Esq.
17 Jennifer M. Millier, Esq.
Attorneys for Defendant/Cross-Complainants
NORTH BAY CONSTRUCTION, INC.

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2 approximately ninety (90) days from now.
3

4 Dated: January 27, 2009

LEWIS BRISBOIS BISGAARD & SMITH, LLP

5
6 By 

Jeffrey G. Bairey
Lorena Matei
Attorneys for Cross-Defendant
ISCO INDUSTRIES, LLC

7
8
9 Dated: January __, 2009

BELL, ROSENBERG & HUGHTS LLP

10
11 By _____

Roland Nikles
Attorneys for Plaintiff and Cross-Defendants
ISCO INDUSTRIES, LLC

12
13 Dated: January __, 2009

ABBey, WEITZENBERG, WARREN & EMERY

14
15 By _____

David W. Berry, Esq.
Jennifer M. Millier, Esq.
Attorneys for Defendant/Cross-Complainants
NORTH BAY CONSTRUCTION, INC.

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1 The parties request the Court set this matter for a further case management conference for
2 approximately ninety (90) days from now.


3
4 Dated: January __, 2009

LEWIS BRISBOIS BISGAARD & SMITH, LLP

5
6 By _____
7 Jeffrey G. Bairey
8 Lorena Matei
9 Attorneys for Cross-Defendant
10 ISCO INDUSTRIES, LLC

11 Dated: January 27, 2009

BELL, ROSENBERG & HUGHTS LLP

12 By  _____
13 Roland Nikles
14 Attorneys for Plaintiff and Cross-Defendants
15 ISCO INDUSTRIES, LLC

16 Dated: January __, 2009

ABBAY, WEITZENBERG, WARREN & EMERY

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21 NORTH BAY CONSTRUCTION, INC.

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SUPPLEMENTAL CASE MANAGEMENT ORDER

The Supplemental Case Management Statement and Proposed Order is hereby adopted by the Court as a Supplemental Case Management Order for the case and the parties are ordered to comply with this Order.

~~[In addition the Court orders as follows:]~~ The Case Management Conference is continued to May 5, 2009, at 2:00 p.m. Updated CMC statement due one week prior to conference.

1/29/09

Dated: _____



UNITED STATES DISTRICT COURT JUDGE
Claudia Wilken

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